HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.26733 of 2007

Dated: 28-12-2007

Between:

Kankamamidi Kistaiah
And another

..... Pet

AND

The Secretary, Regional Transport Authority,
Hyderabad.
And others.

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Counsel for the petitioners : Sri Sriram Reddy

Counsel for Respondents 1 & 2 : A.G.P. for Transport.
Counsel for Respondents 3 to 5: Sri K.Madhav Reddy

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O R D E R

At the interlocutory stage, the writ petition is being disposed of with the consent of the learned counsel.

This writ petition is filed for a writ of mandamus to declare the action of respondent No.2 in not effecting transfer of the ownership of the bus bearing No.AP 13W 123 (Ashoka Leyland 2001 make) in the name of petitioner No.1 as illegal and arbitrary.

Petitioner No.1 claims to have purchased the above-mentioned bus on 1.12.2007 from petitioner No.2. The said bus is registered with respondent No.2. When petitioner No.1 allegedly approached respondent No.2 for change of ownership as envisaged in Section 50(1) of the Motor Vehicles Act 1988, the said authority directed petitioner No.1 to submit No Objection Certificate from respondent No.5 on the ground that the said bus was earlier under hire with Andhra Pradesh State Road Transport Corporation (for short "the Corporation").

On 14.12.2007, this Court while admitting the writ petition granted two weeks' time to enable the learned Standing Counsel for respondent No.5 to file counter affidavit. Today, at the hearing learned counsel for the petitioners submitted that insistence on production of No Objection Certificate from the Corporation is not envisaged by any statutory enactments and therefore, the action of respondent No.2 authority is wholly illegal and arbitrary. Neither learned Assistant Government Pleader for Transport nor the learned Standing Counsel for the Corporation has pointed out any legal provision under which respondent No.2 is entitled to insist on production of No Objection Certificate from the Corporation in respect of a bus which was under hire to it earlier and ownership is sought to be transferred, as a condition for recording the change of ownership. In view of the same, I am of the view that respondent No.2 cannot insist as a pre-condition, production of No Objection Certificate from the Corporation for entertaining and disposing of the application of petitioner No.1 for recording change of ownership.

For the aforementioned reasons, the writ petition is allowed and

respondent No.2 is directed to entertain the application of the petitioner No.1 for recording change of ownership and dispose of the same within a period of three weeks from the date of receipt of a copy of this order.

As a sequel to the disposal of the writ petition, W.P.M.P.No.34904 of 2007 filed by the petitioners seeking interim relief is also disposed of.

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C.V.NAGARJUNA REDDY,J

Date:28.12.2007
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